

## REMARKS

Claims 12-15 have been canceled without prejudice. Applicants reserve the right to file divisional application(s) directed to the subject matter of these claims.

### 35 U.S.C. §112

Claims 1-11 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite. In particular, the Office States that the scope of the phrase "hop solids" is not known. At page 3, lines 9-18 of the specification the term "hop solids" has been defined. The term "substantially" does not appear in this definition. Thus, the scope of the term "hop solids" in the claims can be determined from page 3, lines 9-18 of the specification. Thus, it is respectfully requested that this rejection be withdrawn.

The Office Action objected to the term "hot" in claims 2, 7 and 11. The term "hot" has been removed from these claims to overcome this objection.

### 35 U.S.C. §103(a)

Claims 1-11 stand rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 5,972,411 to Goldstein *et al.* (Goldstein). Looking first at amended independent claims 6 and 11, it can be seen that these claims now recite the concentration of  $\alpha$ -acids in the non-polar solvent-washed extract of hop solids as being less than about 5 mg/L. This amendment has a basis at page 13, lines 15-19 of the specification as originally filed.

With respect to Goldstein, the inventors have surprisingly found that malt beverages using the flavoring agent of Goldstein still develop off flavors and aromas when exposed to light. Such light instability is due to the presence of residual alpha acids in the hop solids extract. In this regard, the inventors have surprisingly discovered

that a non-polar solvent washed extract of hop solids will produce a malt beverage of unexpectedly superior light stability while lending a kettle hop flavor to the finished malt beverage. Claims 6 and 14 have been amended to recite that such a washed extract must have a concentration of alpha acids less than about 5 mg/L to more clearly distinguish from Goldstein. Nothing in Goldstein teaches or suggests such a concentration of alpha-acids.

Therefore, it is believed that amended independent claims 1 and 6 (and claims 2-5 and 7-11 that depend thereon) are patentable over U.S. Patent No. 5,972,411 to Goldstein *et al.*


#### Conclusion

It is respectfully submitted that the entire application has been placed in condition for allowance. Favorable reconsideration is respectfully requested.

No other fees are believed to be needed for this amendment. However, if additional fees are needed, please charge them to Deposit Account No. 17-0055.

Respectfully submitted,

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**Version with Markings to Show Changes Made**

-- 1. (Amended) A method of making a light stable, kettle hop flavoring agent comprising the steps in the following order:

extracting hop solids with a polar solvent to form an extract of hop solids;

acidifying the extract;

washing the extract with a non-polar solvent capable of removing residual  $\alpha$ -acids; and

recovering the washed extract,

wherein the concentration of  $\alpha$ -acids in the washed extract is less than about 5 mg/L. --

-- 2. (Amended) The method of claim 1, wherein the polar solvent is [hot] water. --

-- 6. (Amended) A light stable, kettle hop flavoring agent comprising a polar solvent extract of hop solids that has been washed with a non-polar solvent capable of removing residual  $\alpha$ -acids, wherein the concentration of  $\alpha$ -acids in the non-polar solvent-washed extract of hop solids is less than about 5 mg/L. --

-- 7. (Amended) The flavoring agent method of claim 6, wherein the polar solvent is [hot] water. --

-- 11. (Amended) The method of claim 10, wherein the polar solvent is [hot] water and the non-polar solvent is hexane. --